



## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-720-80 (new section)
<b>Regulation title</b>	Regulations Governing Local School Boards and School Divisions
<b>Action title</b>	Add a section governing fees and charges to the above named regulations
<b>Date this document prepared</b>	September 28, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Board of Education's *Rules Governing Fees and Charges*, 8 VAC 20-370-10, were adopted on or before September 1, 1980 and have not been amended since that time. These regulations are out of date and in need of revision. The purpose of this proposal is to repeal the current regulations governing fees charged by local school divisions and create new provisions that will be added as a section to the proposed *Regulations Governing Local School Boards and School Divisions*, 8 VAC 20-720-10 et seq. when they become final. The current regulations governing fees and charges will be repealed simultaneously with the addition to the *Regulations Governing Local School Boards and School Divisions*.

On May 21, 2008, a petition was filed requesting that the Virginia Board of Education review and revise the regulations to ensure clarity in the implementation of their provisions. The petition required a 21 day public comment period. That public comment period was held from June 23 to July 14, 2008. Forty-five comments were received. The majority of commenters supported revising the regulations, while several requested that the Board eliminate fees.

During the NOIRA public comment period, from September 24 to November 24, 2008, one person submitted comments, along with a petition with 99 signatories supporting those comments. All comments

received in response to the petition and the NOIRA were considered in the development of the new regulatory requirements.

A public comment period on the proposed regulations was held between May 24, 2010 and July 26, 2010 to receive any comments on the proposed regulations and additional suggestions from the public. Approximately 42 comments were received. These comments are detailed in the public comment section below.

The proposed regulation section will include specific provisions regarding permissible and impermissible fees, policies for families that cannot afford the fees and impermissible actions for the failure to pay the fees.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.*

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The Virginia Board of Education approved the proposed final regulation section as an addition to 8 VAC 20-270, *Regulations Governing Local School Boards and School Divisions*, at its meeting on September 23, 2010.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 22.1-16 of the *Code of Virginia* provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” Additionally, § 22.1-6 of the *Code of Virginia*, limits the fees that may be charged to those that are permitted by state law or Board of Education regulations.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The purpose of this proposal is to repeal the current regulations governing fees charged by local school divisions and create new better defined and updated provisions that will be added as a section to the proposed *Regulations Governing Local School Boards and School Divisions*, 8 VAC 20-720-10 et seq. once they become final. The current regulations governing fees and charges will be repealed simultaneously with the adoption of the addition to the *Regulations Governing Local School Boards and School Divisions*.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The proposed regulations section provides changes to school board policies and procedures and includes specific provisions regarding permissible and impermissible fees, policies for families that cannot afford the fees and impermissible actions for the failure to pay the fees.

The following changes are proposed:

- Local school boards that charge fees would be required to have a policy and a fee schedule that would be provided to parents annually and posted on the school division's Web site.
- The policy would include a provision to waive or reduce fees for economically disadvantaged students and students whose families are undergoing economic hardships. Notice of the option to request a waiver and how to do so would have to be provided each time a fee is charged.
- The policy and fee schedule would be required to be consistent across the school division.
- No fees could be charged that had not been approved by the local school division.
- Fees shall not be charged as a condition of school enrollment unless the student is not of school age or does not live within the jurisdiction (§§ 22.1-1, 22.1-3, and 22.1-5, *Code of Virginia*).
- Fees shall not be charged for textbooks or textbook deposits; however, § 22.1-143, *Code of Virginia*, permits local school divisions to assess a reasonable fee for lost or damaged textbooks.
- Fees shall not be charged for pupil transportation to and from school (Attorney General's Opinion dated August 29, 2007), but may be charged for the student's pro rata cost of providing for voluntary extracurricular activities (§ 22.1-176, *Code of Virginia*).
- Fees may be charged for summer school unless the summer school program is a remediation program required by the Standards of Quality (§ 22.1-253.13:1, *Code of Virginia*).
- Fees may be charged for musical instruments, so long as the instruction in the use of the musical instrument is not part of the required curriculum. (Attorney General's Opinion dated May 6, 1977).
- Fees may be charged for class dues; however, class dues shall not be mandatory, and the school board must specify the kinds of programs and activities covered by class dues;
- Fees may be charged for optional services such as parking fees and locker fees (Attorney General's Opinions dated November 8, 1991 and 1964-65 Att'y Gen. Ann. Rep. 294).
- Fees may be charged for consumable materials, such as workbooks and art supplies and materials, but the local school board must have a policy to ensure that these are furnished at a reduced price or free of charge to students who are unable to afford them (§ 22.1-243,

*Code of Virginia*). In accordance with HB 491, passed by the 2010 General Assembly, language was added that local school boards are not authorized to charge fees to students for instructional materials that are not directly used by a public school student.

- Fees may be charged for the behind the wheel portion of the driver's education program (§ 22.1-205, *Code of Virginia*).
- Fees may be charged for the preparation and distribution of official paper copies of the student's transcript, provided that the school board first provides a reasonable number of copies for free. Official electronic copies of transcripts shall be provided at no cost.

The following provision related to nonpayment of fees is proposed:

- A student may not be suspended or expelled for nonpayment of fees and charges.
- Local school divisions may not withhold a student's academic class schedule, scholastic report card, or diploma for nonpayment of fees.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
  - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
  - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

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The *Code of Virginia* limits the fees that may be charged to those that are permitted by state law or Board of Education regulations. This proposal updates and clarifies an outdated regulation to provide better guidance to local school divisions and incorporates Attorney General's Opinions and changes to the *Code of Virginia*.

The proposed regulations section provides changes to school board policies and procedures and includes specific provisions regarding permissible and impermissible fees, policies for families that cannot afford the fees and impermissible actions for the failure to pay the fees.

The major issues are that local school boards would be required to have a policy and a fee schedule that would be provided to parents annually and posted on the school division's Web site. The policy would include a provision to waive or reduce fees for economically disadvantaged students and students whose families are undergoing economic hardships. Notice of the option to request a waiver and how to do so would have to be provided each time a fee is charged. The policy and fee schedule would be required to be consistent across the school division.

In addition, the regulations specify the fees that may or may not be charged by school divisions, based on provisions in the *Code of Virginia* and on Opinions of the Attorney General.

This proposal is advantageous to students and their families who will have access to necessary information regarding fees and charges and who will be assured that fees charges by local school divisions are in accordance with state law and regulations. Additionally, the regulation will clarify that children from families that are economically disadvantaged will not be denied opportunities based on their inability to pay the imposed fees. There are no disadvantages to the public or the Commonwealth.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
80 A.	No fees or charges may be levied unless authorized by the Board of Education or by the <i>Code of Virginia</i> .	Language is revised to say that no fees or charges may be levied unless authorized by regulation of the Board or by the General Assembly	Revised for clarity.
80 B.	Required local school board policies to include the sanctions for nonpayment of fees.	The term “sanctions” has been changed to “consequences.”	Revised for clarity.
80 C.	Requires that local school board policies provide for the reduction or waiver of fees for economically disadvantaged students and students whose families cannot afford them. Specific examples of such students are included.	The phrase “and are financially unable to pay them” is added.  Families receiving Supplemental Security Income are added to the examples.  The term “food stamps” is replaced with the term “Supplemental Nutrition Assistance Program.”	Revised for clarity.  Revised in response to public comment. Supplemental Security Income is a form of public assistance recognized by the Virginia Supreme Court.  The food stamp program is now known as the Supplemental Nutrition Assistance Program.
80 D.		Language is added to require school divisions to provide notice that a fee waiver may be requested, including directions as to how to apply for the waiver, each time a fee is charged.	Revised in response to public comment.
80 F.	The fee policy and the fee schedule shall be consistent throughout the school division, although there may be different fee schedules for elementary, middle, and high school levels.	Language revised to say that the fee policy and the fee schedule shall be consistent throughout the school division, although there may be different fee schedules assessed at elementary, middle, and high schools.	Revised for clarity.
80 H 1 and 2	Fees may be charged for nonmandatory services... and nonmandatory extracurricular activities.	The term “nonmandatory” is changed to “optional” (services) and “student-selected” (extracurricular activities).	Revised for clarity.
80 H.5	Deposits may be charged for musical instruments not required for instructional activities.	Language is broadened to permit fees for musical instruments so long as the instruction in the use of musical instruments is not part of the required curriculum.	Revised in response to public comment and to comport with the Attorney General’s Opinion dated May 6, 1977.

80.H. 10	Fees may be charged for consumable materials such as workbooks, writing books, and drawing books.	Language is added to clarify that fees may be charged for consumable materials such as workbooks, writing books, drawing books and fine arts materials and supplies.  Language is added to say that Local school boards are not authorized to charge fees to students for instructional materials, textbooks, or other materials that are not directly used by a public school student.	Fine arts materials and supplies are added in response to public comment.  Language is added to comport with HB 491, passed by the 2010 General Assembly.
80.H.12	A student's pro rata share of the cost of providing transportation for voluntary extracurricular activities	Language is added to say that a fee not to exceed a student's pro rata share.	Revised for clarity
80.I	Local school boards shall not withhold any student's, scholastic report card or diploma because of nonpayment of fees and charges, in accordance with § 22.1-6 of the <i>Code of Virginia</i> or to suspend or expel a student for nonpayment of fees.	Language is added to say that local school boards shall not withhold any student's class schedule for nonpayment of fees.	Revised in response to public comment

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

The proposed regulation was published in the Virginia Register of Regulations on May 24, 2010. The public comment period was held from May 24, 2010 through July 26, 2010. Written comments could be provided to the Department of Education by mail, e-mail or fax. Public comments could also be provided at public hearings held on June 3, 2010 in Marion, or on June 10, 2010 in Alexandria, Chesapeake or Richmond. Additionally, time was always set aside at the Virginia Board of Education's regular meetings for public comment. As a result of these efforts, approximately 42 public comments were received.

Commenter	Comment	Agency response
Citizen	Regulations should require local school divisions to provide clear, conspicuous written notice that low income families can apply for a fee waiver, including directions as to how to do so each time a fee is charged.  Fee waivers should be made	Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.  The waiver provision in 8 VAC 20-720-80.D

	<p>available for all activities, whether mandatory, elective, or optional.</p> <p>The regulations should explicitly prohibit school divisions from withholding class schedules, or excluding students from basic educational functions such as graduation ceremonies or field trips for nonpayment of fees.</p>	<p>was written to address all fees.</p> <p>Language is added to prohibit the withholding of class schedules for nonpayment of fees.</p>
<p>Legal Aid Society of Roanoke Valley</p>	<p>Families should receive clear written notice about the availability of fee waivers whenever a fee is charged.</p> <p>Families should have access to waivers for every school-related activity, whether optional or required.</p> <p>Schools should be prohibited from withholding academic schedules, or excluding students from participating in activities such as graduation or field trips if fees are not paid.</p>	<p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver.</p> <p>The waiver provision in 8 VAC 20-720-80.D is written to address all fees.</p> <p>Language is added to prohibit the withholding of class schedules for nonpayment of fees.</p>
<p>High School English Teacher</p>	<p>Do not drop fees for art supplies, musical instruments, uniforms and music because programs will be cut back or cut altogether for lack of funds, students will lose opportunities, and teachers will lose jobs.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Art Teacher</p>	<p>Do not eliminate art fees because students would not be able to purchase all of the items they need individually.</p>	<p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Music Educator</p>	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Social Studies Department Chair</p>	<p>Students should not be required to pay for a gym uniform because it is a required course.</p> <p>Eliminate the disparity in fees. It is unfair that some students must pick a course schedule based on the</p>	<p>Language in 8 VAC 20-720-80.G and H address fees that may or may not be charged. 8 VAC 20-720-80 G.2 says that local school boards may not charge fees for instructional programs and activities, or materials required for instruction, except as specified in 8 VAC 20-720-80.H.</p>

	<p>classes they can afford to take.</p> <p>Allowing a fee waiver is helpful, but there are many families who would not qualify for the waiver, but would still be burdened by the fees.</p>	
<p>Elementary School Principal</p>	<p>School fees should not be required to be consistent cross the school division. They should be based on school needs.</p> <p>Add language that school management teams that include parent input will determine the fees within those allowed by the school board.</p> <p>Add a process that allows individual schools to request waivers to add fees that are supported by staff and parents for school activities.</p> <p>Charter schools should be required to follow the same guidelines as other schools in a division as it relates to fees.</p> <p>Opposes providing reduced fees for economically disadvantaged students unless the state provides funding for this purpose. Funding support should be clearly spelled out in policy how a division will support students who cannot pay.</p> <p>Require all students to pay at a least a portion. Economically disadvantaged students should be required to pay at least 50% of the fees.</p> <p>Do not prohibit fees for art and music programs.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Music Teacher</p>	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to</p>

	charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.	permit fees for consumable materials including fine arts materials and supplies.
Music Specialist	Do not damage performing arts programs by eliminating fees.	Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.
Choral Director	Supports the charging of fees by school boards and school divisions.  Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.  Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.	The regulations currently allow school boards to charge fees.  Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.  Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.
Chorus Teacher	Supports the charging of fees by school boards and school divisions.  Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.  Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.	The regulations currently allow school boards to charge fees.  Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.  Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.
Teacher?	Supports the charging of fees by school boards and school divisions.  Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.  Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.	The regulations currently allow school boards to charge fees.  Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.  Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.
?	Supports the charging of fees by school boards and school divisions.  Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.	The regulations currently allow school boards to charge fees.  Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.

	<p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Art Teacher	<p>Supports the charging of fees for fine arts students. Students take better care of materials if they have a stake in them and it would allow budgets to extend further.</p>	<p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Virginia Art Education Association	<p>Supports the charging of fees by school boards and school divisions.</p> <p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Citizen	<p>Supports the charging of fees by school boards and school divisions.</p> <p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Citizen	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Citizen	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>

	fine arts materials.	
Parent	<p>Supports the charging of fees by school boards and school divisions.</p> <p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Retired Art Educator and VAEA Board Chair	<p>Without fees as funding from the school board, it will be difficult to provide many consumable materials for fine arts classes, thus diluting the quality of offerings for students and have a negative impact on advanced study opportunities.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Band Director	<p>Supports the charging of fees by school boards and school divisions.</p> <p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
Citizen (22)	<p>It is the right decision to regularize the schools so as not to exclude low income group students for extra activities in the school.</p>	
Music Department Chair (23)	<p>Supports the charging of fees by school boards and school divisions.</p> <p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>The regulations currently allow school boards to charge fees.</p> <p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
High School Choir Alumni	<p>Supports the charging of fees by school boards and school divisions.</p>	<p>The regulations currently allow school boards to charge fees.</p>

	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Division Superintendent</p>	<p>Regulations would impose new administrative requirements on LEAs while reducing local flexibility over potential sources of revenue.</p> <p>Instructional programs that are particularly resource and/or equipment intensive could be disproportionately affected.</p> <p>Consider dropping the requirement to include unemployment benefits from the waiver section.</p> <p>Section F appears unnecessary.</p> <p>Fee prohibitions in item number 2 are written too broadly and could eliminate fee authority in many circumstances where a fee is appropriate.</p> <p>Prohibition language conflicts with the Code, i.e. costs for AP or IB exams. It is unclear whether LEAs would be allowed to pass those charges and charges for industry certification exams to students given they are directly related to instructional programs and activities.</p> <p>Draft language only allows for deposits for musical instruments, not charges, and only for non-instructional instruments. This could have an impact on the ability of LEAs to provide this instruction.</p> <p>Draft regulations are likely to have a fiscal impact on LEAs, in terms of revenue losses and additional administrative burden. Suggests the BOE consider delayed enactment of the changes until the</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p>

	fiscal situation in Virginia improves.	
JustChildren	<p>Add Supplemental Security Income as one of the forms of public assistance qualifying a family for a waiver.</p> <p>Families should receive clear written notice of how to request a waiver each time a fee is charged.</p> <p>Waivers should be available for all activities, whether mandatory or optional.</p> <p>Schools should be prohibited from withholding class schedules, or excluding students from basic educational activities such as graduation or field trips for non-payment of fees.</p>	<p>Language is added in 8 VAC 20-720-80.C to include Supplemental Security Income.</p> <p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.</p> <p>The waiver provision in 8 VAC 20-720-80.D was written to address all fees.</p> <p>Language was added to prohibit the withholding of class schedules for nonpayment of fees.</p>
Citizen	All children need a fair chance of an education, no matter their income level, background, or anything else.	
Citizen	The regulations are really helpful for those people who want to go to school but do not have enough money to pay tuition or other expenses.	
Citizen	Children need to be educated and the government must make a move to help those children who cannot afford school expenses.	
Citizen	The regulation page is a good page with nice topics and good comments.	
Citizen	The topics are interesting and important.	
Citizen	More actions like this should be taken.	
Citizen	With the recession, we all should strive to economize and not have necessary fees.	
Citizen	Looking forward to learning more about this.	
Virginia Leadership Coalition for Fine Arts in Education	<p>Permit local school boards to charge fees for musical instruments and equipment required for instructional activities.</p> <p>Permit local school boards to charge fees for consumable materials such as workbooks, writing books, drawing books, and fine arts materials. Keep in mind</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>

	<p>the long term impact of the proposed regulations. It is impractical to think school divisions can fully fund the equipment, maintenance and consumable supply needs of the school.</p>	
Legal Aid	<p>Families should receive clear notice about the availability of fee waivers whenever a fee is charged.</p> <p>Families should have access to waivers for every school-related activity, whether those activities are optional or required.</p> <p>Schools should be prohibited from withholding academic schedules, or excluding students from participating in activities like graduation or field trips because of unpaid fees.</p>	<p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.</p> <p>The waiver provision in 8 VAC 20-720-80.D was written to address all fees.</p> <p>Language was added to prohibit the withholding of class schedules for nonpayment of fees.</p>
Families and Allies of Virginia's Youth	<p>Families should receive clear written notice of how to request a waiver each time a fee is charged.</p> <p>Waivers should be available for all activities, whether mandatory or optional.</p> <p>Schools should be prohibited from withholding class schedules, or excluding students from basic educational activities like graduation or field trips because of non-payment of fees.</p>	<p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.</p> <p>The waiver provision in 8 VAC 20-720-80.D was written to address all fees.</p> <p>Language was added to prohibit the withholding of class schedules for nonpayment of fees.</p>
Band Director	<p>Removing some of the fees will present an undue burden on school divisions' ability to support the successful programs that the children and community have enjoyed.</p> <p>The term "consumable" should be revised to include those terms critical to a fine arts education, such as visiting artists, entry fees to state performance assessments, and sheet music.</p> <p>Allow local school divisions to use state textbook monies to purchase sheet music. In music classes, sheet music is the textbook.</p>	

<p>Just Children</p>	<p>Families should receive clear written notice of how to request a waiver each time a fee is charged.</p> <p>Waivers should be available for all activities, whether mandatory or optional.</p> <p>Schools should be prohibited from withholding class schedules, or excluding students from basic educational activities like graduation or field trips because of non-payment of fees.</p>	<p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.</p> <p>The waiver provision in 8 VAC 20-720-80.D was written to address all fees.</p> <p>Language was added to prohibit the withholding of class schedules for nonpayment of fees.</p>
<p>Virginia Music Educators, Inc.</p>	<p>Allow school divisions to charge fees for musical instruments and equipment required for instructional activities and for consumable materials used in Fine Arts.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Virginia Music Educators Association and Virginia Leadership Coalition for Fine Arts in Education</p>	<p>Allow school divisions to charge fees for musical instruments and equipment required for instructional activities and for consumable materials used in Fine Arts.</p>	<p>Language is added in 8 VAC 20-720-80.H.5 to permit fees for musical instruments, so long as the use of musical instruments is not a part of the required curriculum.</p> <p>Language is added in 8 VAC 20-720-80H.10 to permit fees for consumable materials including fine arts materials and supplies.</p>
<p>Advocating for Children and Justice for All</p>	<p>No child should be prevented from taking a course or participating in an activity because of inability to pay a fee.</p> <p>Families should receive clear written notice as to how to request a waiver each time a fee is charged.</p> <p>Waivers should be available for all activities, whether mandatory or optional.</p> <p>Schools should be prohibited from withholding class schedules, or excluding students from basic educational activities like graduation or field trips for non-payment of</p>	<p>Language in 8 VAC 20-720-80.G and H address fees that may or may not be charged. 8 VAC 20-720-80 G.2 says that local school boards may not charge fees for instructional programs and activities, or materials required for instruction, except as specified in 8 VAC 20-720-80.H.</p> <p>Language is added in 8 VAC 20-720-80.D to provide for a waiver and a written notice, with directions as to how to apply for a waiver each time a fee is charged.</p> <p>The waiver provision in 8 VAC 20-720-80.D was written to address all fees.</p> <p>Language was added to prohibit the withholding of class schedules for nonpayment of fees.</p>

	fees.
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**All changes made in this regulatory action**

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8VAC 20-370-10	8VAC20-720-80	<p>Prohibits school divisions from imposing any fees or charges unless authorized by the Board of Education and from withholding any pupil's scholastic report card or diploma due to nonpayment of any fee or charge.</p> <p>Lists the following permissible fees: class dues; voluntary student activities; night school classes; postgraduate classes; summer school; rental textbooks; musical instruments used in regularly scheduled instructional classes and library fees.</p> <p>States that the regulation shall not be construed to prohibit the school board from making supplies, services or materials available to pupils at cost or to charge for field trips or educationally related programs that are not required activities.</p> <p>Permits the charging of deposits and when return of the item results in the refund of the deposit.</p> <p>States that the regulation does not cover operations of school stores or other</p>	<p>The current regulations would be repealed and new regulations would be promulgated to include the following provisions:</p> <p>Local school boards that charge fees would have to have a policy and a fee schedule that would be provided to parents annually and posted on the school division's Web site. <b>Rationale:</b> To ensure that all parents are aware of the fee schedule.</p> <p>The policy would include a provision to waive or reduce fees for economically disadvantaged students and students whose families are undergoing economic hardships. <b>Rationale:</b> To ensure that students would not be denied opportunities based on their inability to pay the imposed fees.</p> <p>The policy and fee schedule would have to be consistent across the school division. <b>Rationale:</b> To ensure that parents are not required to pay different fees depending on which school the student attends.</p> <p>No fees could be charged that had not been approved by the local school board. <b>Rationale:</b> To ensure that schools do not charge fees without the knowledge and approval of the local school board.</p> <p>Fees may not be charged as a condition of school enrollment unless the student is not of school age or does not live within the jurisdiction. (§§ 2.1-1, 22.1-3, and 22.1-5 of the <i>Code of Virginia</i>) <b>Rationale:</b> To ensure that enrollment fees are charged in compliance with state law.</p> <p>Fees may not be charged for textbooks or textbook deposits; however, § 22.1-143 of the <i>Code of Virginia</i>, permits local school</p>

		<p>fund raising activities.</p>	<p>divisions to assess a reasonable fee for lost or damaged textbooks.  <b>Rationale:</b> To ensure that students are provided textbooks at no cost as required by the Article VIII, § 3 of the Constitution of Virginia.</p> <p>Fees may not be charged for pupil transportation to and from school (Attorney General's Opinion, dated August 29, 2007), but may be charged for the student's pro rata share of the cost of providing transportation for voluntary extracurricular activities (§ 22.1-176 of the <i>Code of Virginia</i>.)  <b>Rationale:</b> To ensure compliance with state law and the opinion of the Attorney General.</p> <p>Fees may be charged for summer school unless the summer school program is a remediation program required by the Standards of Quality (§ 22.1-253.13:1 of the <i>Code of Virginia</i>.)  <b>Rationale:</b> To ensure that students are not charged fees for required remediation programs in contradiction of the Standards of Quality.</p> <p>Fees may be charged for class dues. However, they shall not be mandatory and the school board must specify the kinds of programs and activities funded by class dues.  <b>Rationale:</b> In response to questions that the department has received from time to time from the public, including parents of public school children.</p> <p>Fees may be charged for musical instruments, so long as the instruction in the use of musical instruments is not part of the required curriculum.  <b>Rationale:</b> To comport with the opinion of the Attorney General.</p> <p>Fees may be charged for nonmandatory services, such as parking and locker rental (Attorney General's Opinions dated January 12, 1982 and November 8, 1991).  <b>Rationale:</b> To ensure compliance with the Attorney General's Opinions.</p> <p>Fees may be charged for consumable materials, such as workbooks and art supplies and materials, but the local school board must have a policy to ensure that they</p>
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			<p>are furnished at a reduced price or free of charge to students who are unable to afford them (§ 22.1-243, <i>Code of Virginia</i>.)  <b>Rationale:</b> To ensure compliance with state law.</p> <p>Fees may be charged for the behind the wheel portion of the driver's education program (§ 22.1-205, <i>Code of Virginia</i>.)  <b>Rationale:</b> To ensure compliance with state law.</p> <p>Fees may be charged for the preparation and distribution of official paper copies of the student's transcript, provided that the school board first provides a reasonable number of free copies. Official electronic copies of transcripts shall be provided at no cost.  <b>Rationale:</b> to ensure that student's receive an appropriate number of transcripts for college and scholarship applications for free, without placing a financial burden on local school divisions for requests for inordinate numbers of transcripts.</p> <p>Local school boards shall not withhold a student's report card, class schedule, or diploma because of nonpayment of fees and charges (§ 22.1-6 of the <i>Code of Virginia</i>) or withhold his academic class schedule or suspend or expel a student for nonpayment of fees and charges.  <b>Rationale:</b> To ensure compliance with state law and to prevent extreme disciplinary measures against a student if a parent does not pay a fee.</p> <p>Provides that the regulations do not address the operation of school stores or fund raising activities where transactions are strictly voluntary.  <b>Rationale:</b> To clarify that the regulations do not address <u>voluntary</u> activities regarding school stores or fund raising activities.</p>
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**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for*

*small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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There are no alternative regulatory methods as the *Code of Virginia* only permits local school divisions to charge fees that have been approved by the Board of Education or required by the *Code*. There will be no impact on small business because the regulations apply only to local school boards and school divisions.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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It is anticipated that the proposed regulation section will have a positive impact on students and their families in that the regulation requires the development of consistent policies and fee schedules throughout the schools in the school division and that the policies and fee schedule are provided to parents so they are knowledgeable about what is required and are assured that the fees are uniform and in compliance with law and regulations.